



## **Mission Statements**

The mission of the Department of the Interior is to protect and provide access to our Nation's natural and cultural heritage and honor our trust responsibilities to Indian Tribes and our commitments to island communities.

The mission of the Bureau of Reclamation is to manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the American public.

# Introduction

The Klamath Project (Project) delivers water for irrigation purposes to over 200,000 acres in southern Oregon and northern California. The Project relies upon several primary water sources to meet irrigation demands: live flow into and stored water from Upper Klamath Lake (UKL), Klamath River, Clear Lake Reservoir, Gerber Reservoir, and the Lost River. The Project's water supplies have been impacted by the severe drought conditions currently affecting California and southern Oregon. This 2014 Drought Plan describes the background for and the process of allocating the available Project water supplies during the 2014 spring/summer irrigation season (March 1 to November 15), consistent with the system of contractual priorities that exist within the Project.

## 2014 Drought Planning

On April 8, 2014, the Bureau of Reclamation issued the 2014 Annual Operations Plan (Operations Plan), which identified the estimated available Project water supplies for the 2014 spring/summer irrigation season, consistent with the biological opinions issued jointly by National Oceanic and Atmospheric Administration's National Marine Fisheries Service and the U.S. Fish and Wildlife Service on May 31, 2013. As the Operations Plan described, the available water supplies from the various Project sources are estimated to be below average during the 2014 spring/summer irrigation season due to ongoing drought conditions.

In response to the estimated below average Project water supplies, the Operations Plan identified a series of drought mitigation measures intended to minimize, if not avoid, the potential for involuntary shortages among Project contractors. These measures included active conservation efforts, the Klamath Water and Power Agency's (KWAPA) Water Users Mitigation Program (WUMP), voluntary transfers among Project water users, and state water rights administration.

Management of the limited water supplies varies across the Project. In the case of Gerber Reservoir, Langell Valley Irrigation District is distributing the available supply among district landowners. Horsefly Irrigation District and Poe Valley Improvement District are likewise working directly with their patrons to manage the limited water supply available from the Lost River and to utilize alternative water sources.

With respect to the Project water supply available from UKL and the Klamath River, since the release of the Operations Plan, Reclamation has been coordinating with Klamath Project water users regarding the necessity for and timing of any decision to allocate available water supplies. At the beginning of April, there existed the possibility that with sufficient drought mitigation

measures and improved hydrologic conditions, Reclamation would not need to make an allocation of the available supply from UKL and the Klamath River. However, during the month of April, the Upper Klamath Basin received below average precipitation, the Klamath Project experienced above average water demands, and despite strong initial interest in the WUMP, many applicants to the program ultimately chose not to participate.

This combination of factors has led to the need for a formal allocation of the available Project supply available from UKL and the Klamath River. When available water supplies are insufficient to meet the demands of all Klamath Project contractors, Reclamation is obligated to allocate the available supplies in accordance with applicable contract terms, as further described below.

## **Contractual Priorities**

### **Project Water Contracts**

In the event of a shortage in Project water supplies, Reclamation determines the allocation of the available supply in accordance with the terms of the contracts between Reclamation and districts and individual water users. There are four general types of these contracts within the Project: 1) settlement contracts; 2) repayment contracts; 3) Warren Act contracts; and 4) annual water rental agreements. In accordance with the authority for the respective contracts and their explicit terms, these contracts create a system of priorities among Project contracts, within the Project, in the event of a shortage in the available Project water supplies.

#### **1. Settlement Contracts**

Settlement contracts describe agreements between the United States and water users with state water rights that were acquired independent of Reclamation's notices and filings made in connection with the Klamath Project. Each of these agreements is unique and governed by the specific terms of the contract.

#### **2. Repayment Contracts**

The term repayment contract covers contracts executed pursuant to either the Reclamation Act of 1902 (32 Stat. 388, 43 U.S.C. §§ 371 et seq.), or section 9(d) of the Reclamation Act of 1939 (53 Stat. 1193, 43 U.S.C. § 485h(d)). The lands covered by repayment contracts are exclusively within the Klamath Irrigation District (KID) and Tulelake Irrigation District (TID). In the event of a shortage, these contracts obligate Reclamation to reduce and/or terminate deliveries to Warren Act contractors prior to reducing deliveries to KID or TID.

#### **3. Warren Act Contracts**

Warren Act contracts include all contracts executed pursuant to the Warren Act (36 Stat. 925, 43 U.S.C. §§ 523-525), which provide for a supply of Project water that is secondary to the contractual rights of repayment contractors. Consistent with the Warren Act, deliveries under these contracts are subject to being curtailed if necessary when there is not an adequate supply for lands covered by repayment and settlement contracts.

To the extent that there is Project water available in addition to the needs of repayment and settlement contractors, Reclamation will apportion the remaining available Project supply among Warren Act contracts on a pro rata (i.e., proportional) basis, based on the number of acres under each contract.

Many of the Warren Act contracts on the Project also expressly limit the contracted Project supply to a specified amount of water, such as 2.0 or 2.5 acre-feet (AF) per irrigable acre. These contracts also commonly include a limitation on the monthly rate of diversions (e.g., no more than 0.6 AF per irrigable acre per month). Such limitations apply independent of any restrictions that may exist under state law.

#### **4. Annual Water Rental Agreements**

Annual water rental agreements provide water if and when there is excess water beyond the needs of lands under settlement, repayment, and Warren Act contracts. Reclamation executes annual water rental agreements in various locations, depending on the availability of surplus water supplies. KID and TID are also authorized to enter into annual water rental agreements, if such water is available, through their respective delivery control points, with Project water users. Generally, if Project water supplies are limited among settlement, repayment, and Warren Act contracts, Reclamation will not make water available for annual water rental agreements.

## **Contractual Allocation**

In allocating the available Project water supply from UKL and the Klamath River, the first consideration is the 1909 settlement contract between the United States and the Van Brimmer Ditch Company (VBDC). This contract obligates Reclamation to deliver fifty (50) cubic feet per second (cfs) of water from April 1 through September 30 of each year through the C Canal, in satisfaction of the water rights VBDC originally claimed to waters from Lower Klamath Lake and the Klamath River. Reclamation interprets this settlement contract as requiring that VBDC's right to 50 cfs first be satisfied before water is made available to the remainder of the Project. VBDC's demand generally represents a small portion of total Project demand.

Following VBDC's 50 cfs, as described above, Reclamation is contractually

obligated to provide a sufficient supply for the Project's repayment contractors, KID and TID. The amount of Project surface water from UKL and Klamath River needed to satisfy the demands of KID and TID is based on a number of factors, such as current and projected hydrologic conditions, anticipated return flow patterns, and existing cropping patterns.

The amount of water needed to satisfy the demands of KID and TID is affected by voluntary drought mitigation measures. In particular, KWAPA's WUMP is designed to reduce surface water demand within the Project, through agreements with landowners to temporarily forgo the use of surface water and to produce supplemental groundwater supplies.

Currently, KWAPA has executed contracts with the owners of approximately 16,000 acres of land served from UKL and Klamath River to forego the use of surface water supplies; however, the extent to which such lands are within KID and TID is still undetermined at this time. In addition, KWAPA has indicated that upwards of 70,000 AF of groundwater may be produced in connection with the WUMP; however, again, the extent to which this groundwater will be applied to lands within KID and TID remains uncertain. Moreover, this level of groundwater pumping may be limited by state water rights administration. Accordingly, at this time, it remains uncertain the extent to which the WUMP will directly reduce water demands within KID and TID.

Reclamation has been coordinating with Project water users about the various factors that influence the necessity and timing of a decision to allocate Project water supplies. Given current and projected hydrologic condition and ongoing voluntary drought mitigation measures, Reclamation currently estimates that approximately 60,000 AF of surface water from UKL and the Klamath River will be available during the 2014 spring/summer irrigation season for use by Warren Act contractors. The amount equates to a pro rata allocation of approximately one (1) AF per acre for land under a Warren Act contract, as further detailed in Table 1, following page.

Accordingly, at this time, Project water deliveries from UKL and the Klamath River to Warren Act contractors will be limited to a total of one (1) AF per irrigable acre under contract, including any water used since March 1. KID and TID, which are responsible for the operation and maintenance of certain Project facilities, will also be notified to limit surface water deliveries to Warren Act contractors served through these facilities consistent with this allocation.

This allocation is subject to change based on several potential factors, including: changes in hydrologic conditions and anticipated water demands, participation in drought mitigation measures, state water rights administration, and voluntary water rights transfers. Reclamation will update the current allocation as needed based on available information. In particular, as further described in the Operations Plan, Reclamation will recalculate the Project supply available from

UKL and the Klamath River following the June 1 inflow forecast from the Natural Resources Conservation Service (NRCS). This recalculation could cause the estimated Project supply available from UKL and the Klamath River to change. As a result, following the NRCS' June 1 inflow forecast, Reclamation will update the current allocation, based on the hydrologic information available at that time. In addition to this scheduled update, Reclamation will directly notify Project water users of any action or decision that changes their allocation.

Due to the identified shortage in Project water supplies from UKL and the Klamath River, Reclamation does not anticipate executing any new annual water agreements or making any deliveries under existing water rental agreements at this time. Likewise Reclamation will also be notifying KID and TID that Project water is not currently available for delivery under the annual rental agreements that these districts execute, in accordance with the terms of their contracts.

*Table 1. Klamath Project Warren Act contract acreages.*

<b>Warren Act Contractor</b>	<b>Contract Irrigable Acreage</b>
<b>A Canal System (KID)</b>	
Pine Grove Improvement Dist.	1,004.9
Enterprise Irrigation Dist.	2,980.8
Malin Irrigation Dist.	3,479.2
Shasta View Irrigation Dist.	4,067.2
Sunnyside Irrigation Dist.	595.0
Klamath Basin Improvement Dist.	10,282.4
Individual Warren Act Contracts	4,662.2
<b>J Canal (TID)</b>	
Westside Improvement Dist.	1,190.0
<b>Lost River (below Lost River Diversion Channel)</b>	
Individual Warren Act Contracts	42.0
<b>Klamath River</b>	
Klamath Drainage Dist. <sup>1</sup>	21,125.1
Plevna Dist. Improvement Co.	381.1
Pioneer Dist. Improvement Co.	423.8
Midland Dist. Improvement Co.	581.0
Ady Dist. Improvement Co.	435.1
Individual Warren Act Contracts	2,167.8
<b>Upper Klamath Lake</b>	
Individual Warren Act Contracts	6,531.3
<b>TOTAL</b>	<b>59,948.9</b>

<sup>1</sup> Includes irrigated agricultural lands in Lower Klamath National Wildlife Refuge

## **Monitoring & Enforcement**

In the event that Reclamation discovers or receives a complaint of an unauthorized use of Project water, Reclamation and/or its contractors will investigate, as deemed appropriate by the Area Manager of the Klamath Basin Area Office. Reclamation will coordinate with Project water users, the Oregon Water Resources Department (OWRD), and other stakeholders concerning any alleged unauthorized water use.

Violations of state water rights will be referred to the OWRD's District Watermaster. Use of Project water contrary to individual contracts with Project water users will result in a written notification to the landowner, the respective district, and/or KWAPA (as applicable). The letter will explain the basis for the alleged unauthorized use and the required remedies. Failure to comply may result in further enforcement action.